



[4830-01-p]

## DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 301

[REG-114307-15]

RIN 1545-BM77

Self-employment Tax Treatment of Partners in a Partnership that Owns a Disregarded Entity

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking by cross-reference to temporary regulations.

SUMMARY: In the Rules and Regulations section of this issue of the **Federal Register**, the IRS is issuing temporary regulations that clarify the employment tax treatment of partners in a partnership that owns a disregarded entity. These regulations affect partners in a partnership that owns a disregarded entity. The text of those temporary regulations serves as the text of these proposed regulations.

DATES: Comments and requests for a public hearing must be received by **[INSERT DATE 90 DAYS AFTER PUBLICATION OF THIS DOCUMENT IN THE FEDERAL REGISTER]**.

ADDRESSES: Send submissions to: CC:PA:LPD:PR (REG-114307-15), room 5203, Internal Revenue Service, PO Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand-delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to CC:PA:LPD:PR (REG-114307-15), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, DC, 20224 or sent electronically,

via the Federal eRulemaking Portal at <http://www.regulations.gov/> ( IRS REG-114307-15).

FOR FUTHER INFORMATION CONTACT: Concerning the proposed regulations, Andrew K. Holubeck at (202) 317-4774; concerning submission of comments, or a request for a public hearing please contact Regina Johnson at (202) 317-6901 (not toll-free numbers).

#### SUPPLEMENTARY INFORMATION

##### **Background and Explanation of Provisions**

Temporary regulations in the Rules and Regulations section of this issue of the **Federal Register** amend the Procedure and Administration Regulations (26 CFR part 301) relating to section 7701. The temporary regulations clarify that an entity disregarded as separate from its owner (a disregarded entity), that is treated as a corporation for purposes of employment taxes imposed under subtitle C, is not treated as a corporation for purposes of employing its individual owner (who is treated as a sole proprietor) or for purposes of employing an individual that is a partner in a partnership that owns the disregarded entity. Rather, the entity is disregarded as an entity separate from its owner for this purpose. The partners are subject to the same self-employment tax rules as partners in a partnership that does not own an entity that is disregarded as separate from its owner. The text of those regulations also serves as the text of these proposed regulations. The preamble to the temporary regulations explains the amendments.

##### **Special Analysis**

Certain IRS regulations, including this one, are exempt from the requirements of Executive Order 12866, as supplemented and reaffirmed by Executive Order 13563. Therefore, a regulatory impact assessment is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations, and because the regulations do not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Internal Revenue Code, this notice of proposed rulemaking will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

### **Comments and Requests for Public Hearing**

Before these proposed regulations are adopted as final regulations, consideration will be given to any comments that are submitted timely to the IRS as prescribed in this preamble under the “Addresses” heading. The Treasury Department and the IRS request comments on all aspects of the proposed rules. All comments will be available at [www.regulations.gov](http://www.regulations.gov) or upon request. A public hearing will be scheduled if requested in writing by any person that timely submits written comments. If a public hearing is scheduled, notice of the date, time, and place for the hearing will be published in the **Federal Register**.

### **Drafting Information**

The principal author of these regulations is Andrew Holubeck of the Office of the Division Counsel/Associate Chief Counsel (Tax Exempt and Government Entities). However, other personnel from the IRS and the Treasury Department participated in their development.

## List of Subjects in 26 CFR Part 301

Employment taxes, Estate taxes, Excise taxes, Gift taxes, Income taxes,  
Penalties, Reporting and recordingkeeping requirements.

### Proposed Amendments to the Regulations

Accordingly, 26 CFR part 301 is proposed to be amended as follows:

#### PART 301—PROCEDURE AND ADMINISTRATION

Paragraph 1. The authority citation for part 301 continues to read in part as follows:

Authority: 26 U.S.C. 7805 \* \* \*

Par. 2. Section 301.7701-2 is amended by revising paragraphs (c)(2)(iv)(C)(2) and adding paragraph (e)(8)(i) to read as follows:

#### §301.7701-2 Business entities; definitions

\* \* \* \* \*

(c) \* \* \*

(2) \* \* \*

(iv) \* \* \*

(C) \* \* \*

(2) [The text of the proposed amendment to §301.7701-2(c)(2)(iv)(C)(2) is the same as the text of §301.7701-2T(c)(2)(iv)(C)(2) published elsewhere in this issue of the **Federal Register**].

\* \* \* \* \*

(e) \* \* \*

(8)(i) [ The text of the proposed amendments to §301.7701-2(e)(8)(i) is the same as the text of §301.7701-2T(e)(8)(i) published elsewhere in this issue of the **Federal Register**].

John Dalrymple,  
Deputy Commissioner for Services and Enforcement.